

**Introduced by Senator Oller**

February 18, 2003

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An act to add Sections 56383.9, 56668.9, 56800.9, 56815.9, 56828.9, 56880.9, 57001.9, and 57132.9 to the Government Code, relating to incorporation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as introduced, Oller. Incorporation: El Dorado Hills.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, specifies the procedures for changes of local government organization, including the incorporation of a city, that are conducted by the local agency formation commission. Existing law authorizes the commission to establish fees for the costs of the proceedings.

This bill would provide that, for the purposes of proceedings for the incorporation of El Dorado Hills in El Dorado County, the El Dorado County Local Agency Formation Commission shall require no additional funding from the incorporation petitioners to finalize or otherwise satisfy all costs and expenses involved in processing the application for incorporation.

(2) Existing law requires the commission to consider various factors in the review of a proposal for an incorporation.

This bill would require, in the case of the proposed incorporation of El Dorado Hills, that any applicable environmental study requirement shall be deemed to have been fully satisfied by designated environmental studies that have already been performed and provided to the commission.

(3) Existing law requires that for any proposal that includes an incorporation, the executive officer of the commission shall prepare a comprehensive fiscal analysis including the costs to the proposed city of providing public services and facilities for the 3 fiscal years following incorporation, the revenues of the proposed city during those 3 years, the effects on the costs and revenues of any affected local agency during those 3 years, and other specified information.

This bill would provide that the comprehensive fiscal analysis completed in March 2000 for the proposed incorporation of El Dorado Hills shall satisfy that requirement and that no additional fiscal analysis or information may be required by the El Dorado County Local Agency Formation Commission in connection with the incorporation of El Dorado Hills.

(4) Existing law requires the commission not to approve a proposal that includes an incorporation unless it finds that revenues that would accrue to the new city are substantially equal to expenditures made for services that will be assumed by the new city.

This bill would provide that for the purposes of the incorporation of El Dorado Hills the revenue neutrality agreement that was approved in November 2000 by the El Dorado County Board of Supervisors shall remain in effect and satisfy the revenue neutrality requirements.

(5) Existing law authorizes the commission, before referring any proposal for a reorganization, which may include an incorporation, to a reorganization committee, to provide for a public hearing on whether the proposal should be disapproved or referred to a reorganization committee.

This bill would provide, with respect to the proposed incorporation of El Dorado Hills, that the commission may not provide for, nor hold a public protest hearing on, whether the incorporation approval shall be disapproved or referred to a reorganization committee and that a reorganization committee may not be established or convened.

(6) Existing law requires the commission to adopt a resolution making determinations to approve or disapprove a plan of reorganization not later than 35 days after the commission hearing.

This bill would require the El Dorado County Local Agency Formation Commission to adopt a resolution making the required determination and approving the incorporation of El Dorado Hills.

(7) Existing law provides that if a certificate of completion for a change of organization, including an incorporation, or reorganization has not been filed within one year after commission approval of the



proposal, the proceeding shall be deemed abandoned unless the commission authorizes an extension.

This bill would provide, with respect to the incorporation of El Dorado Hills, that no certificate of completion shall be required and the proposed incorporation shall be deemed completed and all requirements deemed fulfilled.

(8) Existing law requires that the election on the question of the change of organization or reorganization shall be called and held on the next regular election date occurring at least 88 days after the date upon which the resolution calling the election was adopted.

This bill instead would require, with respect to the incorporation of El Dorado Hills, that the election on the question of the incorporation shall be called and held at the next regular election date occurring at least 78 days after the date upon which the resolution calling the election was adopted.

(9) This bill would make legislative findings and declarations that a special law is necessary.

(10) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 56383.9 is added to the Government  
2     Code, to read:  
3     56383.9. Notwithstanding Section 56383, for the purposes of  
4     proceedings for the incorporation of the community of El Dorado  
5     Hills in El Dorado County, the El Dorado County Local Agency  
6     Formation Commission shall require no additional funding from  
7     the incorporation petitioners to finalize or otherwise satisfy all  
8     costs and expenses involved in processing the application for  
9     incorporation including, but not limited to, collection and  
10    verification of signatures, preparation of the comprehensive fiscal  
11    analysis, any and all studies evaluating the impact or effect of the  
12    proposed incorporation on issues relating to the environment,  
13    traffic, transportation, air quality, and the county general plan as  
14    well as the potential impact of any county ordinances, including,  
15    but not limited to, Measure Y adopted by the voters at the  
16    November 3, 1998, general election and Measure J adopted by the

1 voters at the November 7, 2000, general election. The El Dorado  
2 County Local Agency Formation Commission shall waive or  
3 otherwise not require any further costs or fees for the work of its  
4 executive officer or any other employee, other consultants, or any  
5 other personnel expenses or expert fees of any kind in connection  
6 with this incorporation.

7 SEC. 2. Section 56668.9 is added to the Government Code, to  
8 read:

9 56668.9. Notwithstanding any other provision of law, for the  
10 purposes of a proposed incorporation of the community of El  
11 Dorado Hills in El Dorado County, any applicable environmental  
12 study required for compliance with the California Environmental  
13 Quality Act (Division 13 (commencing with Section 21000) of the  
14 Public Resources Code), including, but not limited to, an  
15 environmental impact report, negative declaration, or mitigated  
16 negative declaration, shall be deemed to have been fully satisfied  
17 by those environmental studies that have already been performed  
18 and provided to the El Dorado County Local Agency Formation  
19 Commission by Pacific Mutual Consultants in connection with the  
20 proceedings for the incorporation of El Dorado Hills.

21 SEC. 3. Section 56800.9 is added to the Government Code, to  
22 read:

23 56800.9. For the purposes of the proposed incorporation of  
24 the community of El Dorado Hills in El Dorado County, the  
25 comprehensive fiscal analysis completed as of March 2000, which  
26 describes the same boundaries of the proposed incorporation, shall  
27 be deemed to satisfy the comprehensive fiscal analysis  
28 requirement of Section 56800 and no further or additional fiscal  
29 analysis or information may be required by the El Dorado County  
30 Local Agency Formation Commission in connection with the  
31 incorporation of El Dorado Hills.

32 SEC. 4. Section 56815.9 is added to the Government Code, to  
33 read:

34 56815.9. Notwithstanding Section 56815, for the purposes of  
35 the proposed incorporation of the community of El Dorado Hills  
36 in El Dorado County, the revenue neutrality agreement for El  
37 Dorado Hills that was approved by the El Dorado County Board  
38 of Supervisors in November 2000, shall remain in full effect and  
39 shall satisfy the revenue neutrality requirements of Sections 56815  
40 and 56886.

SEC. 5. Section 56828.9 is added to the Government Code, to read:

56828.9. Notwithstanding Section 56828, for the purposes of a proposed incorporation of the community of El Dorado Hills in El Dorado County, the El Dorado County Local Agency Formation Commission may not provide for, nor hold, a public protest hearing on the question of whether the incorporation proposal shall be disapproved or referred to a reorganization committee. The commission may not establish or convene a reorganization committee, as described in Section 56828, for the purposes of a proposed incorporation of the community of El Dorado Hills in El Dorado County.

SEC. 6. Section 56880.9 is added to the Government Code, to read:

56880.9. Notwithstanding Section 56880, for the purposes of the proposed incorporation of the community of El Dorado Hills in El Dorado County, the El Dorado County Local Agency Formation Commission shall adopt a resolution making any determinations required pursuant to Section 56375 and approving the incorporation.

SEC. 7. Section 57001.9 is added to the Government Code, to read:

57001.9. Notwithstanding Section 57001, for the purposes of the proposed incorporation of the community of El Dorado Hills in El Dorado County, no certificate of completion shall be required by the commission or its executive officer and the proposed incorporation shall be deemed completed and all requirements for it shall be deemed by the commission and its executive officer as met or otherwise fulfilled.

SEC. 8. Section 57132.9 is added to the Government Code, to read:

57132.9. Notwithstanding Section 57132, for the purposes of the proposed incorporation of the community of El Dorado Hills in El Dorado County, the election on the question of the incorporation shall be called and held on the next regular election date occurring at least 78 days after the date upon which the resolution calling the election was adopted.

SEC. 9. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California

1 Constitution because of the unique circumstances faced by the  
2 unincorporated community of El Dorado Hills in El Dorado  
3 County. The facts constituting the special circumstances are as  
4 follows:

5 Residents of El Dorado Hills filed a petition for incorporation  
6 in April 1998 with all the signatures required pursuant to Section  
7 56101 of the Government Code. Three years later after the  
8 expenditure of more than \$140,000 of the funds of the petitioners  
9 and the El Dorado County Local Agency Formation Commission  
10 (LAFCO) (\$70,000 by the petitioners), and after the completion  
11 of a preliminary feasibility analysis, comprehensive fiscal  
12 analysis, revenue neutrality agreement, and extensive  
13 environmental studies, the entire project was terminated by the El  
14 Dorado County LAFCO on the grounds that the petitioners did not  
15 have sufficient funds to complete the process. Specifically, in spite  
16 of all the funds and efforts already expended by the petitioners and  
17 the studies completed, the El Dorado County LAFCO demanded  
18 that the petitioners provide a lump-sum payment of \$234,000 to  
19 begin and undertake the entire process over again. The  
20 commission justified its decision on an unsupported and incorrect  
21 interpretation of Section 56800 of the Government Code.  
22 Specifically, it reasoned that the data used for the comprehensive  
23 fiscal analysis had expired and that a full environmental impact  
24 report would now be required after completion of previous  
25 environmental studies. The El Dorado County LAFCO then  
26 demanded an entire payment of \$234,000, and terminated the  
27 project altogether several months later when the residents failed to  
28 provide the new funding.

29 Absent this special legislation, the incorporation petitioners  
30 would have to initiate the entire process all over again and pay the  
31 commission the additional \$234,000 with no guarantee that this  
32 would in fact be the final cost. This measure is necessary because  
33 it requires the commission to use the studies performed and funds  
34 already paid to it for the project thereby avoiding further delay and  
35 places the matter before the residents of El Dorado Hills at the  
36 general election of November 2, 2004. Accordingly, a special act  
37 that applies different conditions only to the proposal to incorporate  
38 El Dorado Hills is necessary.

39 SEC. 10. This act is an urgency statute necessary for the  
40 immediate preservation of the public peace, health, or safety

1 within the meaning of Article IV of the Constitution and shall go  
2 into immediate effect. The facts constituting the necessity are:

3 In order for the incorporation proceedings for the proposed City  
4 of El Dorado Hills in El Dorado County to be completed in a timely  
5 manner that will permit the electors to vote on the question of  
6 incorporation at the November 2, 2004, general election, it is  
7 necessary that this act go into immediate effect.

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